

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Proceeding by the Department of
Telecommunications and Energy on its own
Motion to Implement the Requirements of the
Federal Communications Commission's Triennial
Review Order Regarding Switching for Mass
Market Customers

Docket No. 03-60

Investigation by the Department of
Telecommunications and Energy on its own motion
as to the propriety of the rates and charges set forth
in the following tariff: M.D.T.E. No. 17, filed with
the Department on June 23, 2004 to become
effective on July 23, 2004 by Verizon New
England, Inc. d/b/a Verizon Massachusetts.

Docket No. 04-73

**MOTION BY AT&T FOR EXTENSION OF JUDICIAL APPEAL PERIOD AND
PERIOD FOR FILING MOTION FOR RECONSIDERATION**

Pursuant to 220 CMR 1.11(11), AT&T Communications of New England, Inc.
("AT&T")¹ moves that the Department extend the January 4, 2005 deadline for filing a
motion for reconsideration of, and a judicial appeal from, the decision and order
*Consolidated Order Dismissing Triennial Review order Investigation and Vacating
Suspension of Tariff M.D.T.E. No. 17, D.T.E. 03-60/04-73*, dated December 15, 2004 (the
"December 15 Consolidated Decision"). Due to holiday vacation schedules, individuals
at AT&T with the knowledge and experience needed to analyze issues raised by this

¹ AT&T Communications of New England, Inc. files this motion on behalf of itself and all other AT&T entities in Massachusetts, including Teleport Communications – Boston ("TCG") and ACC National Telecom Corp. ("ACC").

decision and individuals with ultimate responsibility for determining AT&T's position regarding the issues raised by this decision have not been available. Specifically, AT&T requests that the deadline for filing a motion for reconsideration be extended to January 21, 2005 and that the judicial appeal period be extended until twenty days following such time as the Department rules on that motion for reconsideration. Good cause exists for AT&T's motion as set forth below.

1. Under 220 CMR 1.11 and G.L. c. 25, § 5, the appeal period is typically twenty days. However, the General Court has granted power to the Department to allow a longer period. *See*, G.L. c. 25, § 5 (“Such petition for appeal shall be filed with the secretary of the commission within twenty days after the date of service of the decision, order or ruling of the commission, *or within such further time as the commission may allow upon request* filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling.”) (emphasis added). Under 220 CMR 1.11(11), “reasonable extensions *shall* be granted upon good cause” (emphasis added).

2. The Department issued the December 15 Consolidated Decision during the week preceding a significant vacation period at AT&T. During the two weeks preceding Christmas and New Years respectively, many of the individuals responsible for the issues raised by the December 15 Consolidated Decision, including the RNM issue, have been on vacation.

3. AT&T did not have any reason to expect the December 15 Consolidated Decision at that time, in order to allow for the resources to address it over the vacation period. The most recent substantive activity in this case prior to the issuance of the December 15 Consolidated Decision (apart from filings related to FCC data summaries

and unrelated to the December 15 Consolidated Decision) had been in the Summer of 2004. AT&T therefore respectfully submits that its requests for extension of the reconsideration and appeal periods should be granted as a matter of basic fairness.

4. It is well settled that the filing of a motion for extension of the judicial appeal period automatically tolls the appeal period for the movant until the Department has ruled on the motion. *Nandy*, D.P.U. 94-AD-4-A n.6 (1994); *Nunnally*, D.P.U. 92-34-A at 6 n.6 (1993). The Department has also granted motions to extend the judicial appeal period pending the Department's ruling on a motion for reconsideration. *Cambridge Electric Light Company*, D.P.U. 97-111-B (1998).

5. Due to the unavailability of necessary individuals during the vacation period, AT&T has not been able to determine with certainty whether it will seek reconsideration or whether it will appeal the Department's December 15 Consolidated Decision. AT&T seeks by this motion to preserve its rights to do so, and submits that it should be given that opportunity as a matter of basic fairness in light of the timing of the Department's decision.

WHEREFORE, AT&T requests that the deadline for filing a motion for reconsideration be extended to January 21, 2005 and that the judicial appeal period be extended until twenty days following such time as the Department rules on that motion for reconsideration.

**AT&T COMMUNICATIONS OF
NEW ENGLAND, INC.**

Respectfully submitted,

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